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09/740,730	12/18/2000	Kayshav Dattatri	020581000130	4186
31864	7590	03/10/2006	EXAMINER	
VIASAT, INC. PATENT GROUP 6155 EL CAMINO REAL CARLSBAD, CA 92009			JEAN, FRANTZ B	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/740,730

Applicant(s)

DATTATRI, KAYSHAV

Examiner

Frantz B. Jean

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/06/05 has been entered.

Claims 1-15 are still pending in this application.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 of the instant application is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4, 7, and 19 of copending Application No.09/740,521. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application is broader than claims 4, 7 and 19 of US Application Number "521". Furthermore, claim 1 of application "730" is inherent in claims 4, 7 and 19 of application number "521".

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1 of the instant application is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 11 of U.S. Patent No.6,925,482. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application is broader than claim 1 and 11 of US patent number "482". Furthermore, claim 1 of the application "730" is inherent in claims 1 and 11 of patent number "482".

#### Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of

Art Unit: 2151

this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abu-Hakima U.S. Patent No. 6,499,021) in view of Lin et al. (U.S. Patent No. 6,163,802) and further in view of IBM "Multi-modal data access" by Kenneth Mason Publications, vol. 426, No. 114, Oct 1999.

As to claim 1, Abu-Hakima teaches an apparatus comprising:  
means for tracking and guaranteeing the delivery of said messages to said destination [col. 10, lines 13-23; Abu-Hakima discloses monitoring a message, and retransmitting a message if a delivery attempt fails];

means for monitoring said tracking and guaranteeing means [col. 10, lines 16-19; col. 3, lines 49-54; Abu-Hakima discloses that a user is able to query the system through an explanation agent regarding the path history of a message] ;

means for archiving said messages at the source upon their delivery to the destination[col. 4, lines 59-63; Abu-Hakima discloses a store of messages].

Abu-Hakima does not expressly teach the limitation of monitoring the tracking and guaranteeing means from a single web site.

However, Lin teaches of an electronic messaging tracking system in which queries may be made regarding the status, travel path, and other criteria of any message. Lin teaches the limitation of monitoring the tracking system from a web site [col. 11, line 66 - col. 12, line 8; Lin discloses querying the message tracking system from a web site].

Abu-Hakima and Lin are analogous art because they relate to tracking messages.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abu-Hakima in view of Lin so as to provide access to the tracking system through a web site. One would be motivated to do so to allow a user to access the message tracking system from any location. Furthermore, neither Abu nor Lin explicitly recites archiving the messages at the source. Kenneth teaches caching data from the source (see page 2 and pages 1-2 of the publication provided by examiner. It would have been obvious to one of ordinary skill in the art at

Art Unit: 2151

the time of the invention to have combined Kenneth Pub caching messages at the source to Abu and Lin to facilitate fast message retrieval while improving the system performance (see Kenneth page 2).

Claims 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abu-Hakima in view of Lin et al., and Kenneth and further in view of Xie et al. (U.S. Patent No. 6,662,213).

As to claim 2, the combination of Abu-Hakima in view of Lin teaches the invention substantially as claimed (see rejection of claim 1 above). Furthermore, Abdu teaches monitoring tracking of messages delivered that can be said implicitly includes the steps of counting [col. 10, lines 16-19; col. 3, lines 49-54; Abu-Hakima discloses that a user is able to query the system through an explanation agent regarding the path history of a message].

However, the combination does not expressly teach the limitation of a database associated with said monitoring means for counting the number of messages delivered during a selected time period.

However, Xie teaches a system for tracking and verifying the status of a communication from one node to another. Xie teaches the limitation of a database associated with a monitoring means for counting the number of messages delivered during a selected time period [col. 15, lines 36-39; Xie discloses determining the transmitted and un-transmitted communications sent to a node during a period of time].

Abu-Hakima in view of Lin and Kenneth and Xie are analogous art because they relate to tracking messages.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abu-Hakima in view of Lin and Kenneth, in view of Xie so as to periodically determine which messages were successfully delivered to recipients. One would be motivated to do so to take appropriate action regarding undelivered messages.

As to claim 3, the combination of Abu-Hakima in view of Lin and Kenneth teaches the invention substantially as claimed (see rejection of claim 1 above). Furthermore, the combination teaches an XML application program interface (see Kenneth page 1-2).

As to claim 4, the combination of Abu-Hakima in view of Lin and Kenneth, teaches the apparatus of claim 3 further comprising

Art Unit: 2151

means for conducting searches [col. 25, lines 11-13], (Kenneth fig 3).

As to claim 5, the combination of Abu-Hakima in view of Lin and Kenneth, teaches the apparatus of claim 3 wherein said monitoring means comprises a portal accessible via the Internet [col. 11, line 66 - col. 12, line 8; Lin discloses querying the message tracking system through a web site on the Internet], (see Kenneth fig 3).

Claims 6, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abu-Hakima in view of Lin et al., and Kenneth and further in view of Hind (U.S. Patent No. 6,665,721).

As to claim 6, the combination of Abu-Hakima in view of Lin and Kenneth, teaches the apparatus of claim 3 wherein said monitoring means comprises a first server for receiving requests from a user via the Internet [col. 11, line 66 - col. 12, line 8; Lin discloses querying the message tracking system via the Internet], (Kenneth fig 3).

The combination does not expressly teach the limitations of said first server adapted to generate an XML message in response to said request; a second server adapted to receive said XML message and to perform a function responsive to said XML message; and means coupled to said second server for communicating the results of said function to said user.

However Hind teaches of a system for remotely accessing information on a web server. Hind teaches the limitations of:

a first server adapted to generate an XML message in response to a request [col. 5, lines 3-30; Hind discloses a Proxy Servlet residing on an Internet Hosting Web Server (first server) that converts a request from a user in an XML document];

a second server adapted to receive said XML message and to perform a function responsive to said XML message [col. 5, lines 3-30; Hind discloses that a Reverse Proxy for a Home Network Server (second server) retrieves the information requested in the XML document]; and

means coupled to said second server for communicating the results of said function to said user [col. 5, lines 3-30; Hind discloses sending the requested information to the user].

Abu-Hakima in view of Lin and Kenneth, and Hind are analogous art because they relate to retrieving information from a server.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abu-Hakima in view of Lin and Kenneth, in view of Hind so as to convert an incoming request into an XML document containing the request and other

Art Unit: 2151

header information. One would be motivated to do so to provide a control channel for communicating timer and queue information, allowing optimization of data flow.

As to claim 7, the combination of Abu-Hakima in view of Lin and Kenneth, in view of Hind teaches the apparatus of claim 6 further comprises means for distributing XML messages to said delivery means via the Internet, said XML messages containing operating instructions for changing the operation of said delivery means [col. 5, lines 3-30; col. 3, lines 27-33; Hind discloses that an XML document containing a request and header information (operating instructions) is sent to the Home Network Reverse Proxy (delivery means)].

As to claim 9, the combination of Abu-Hakima in view of Lin and Kenneth, in view of Hind teaches the apparatus of claim 6 further comprising means, associated with said monitoring means, for recovering at least one of said archived messages [col. 4, lines 59-63; Abu-Hakima discloses that users are able to view stored messages].

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abu-Hakima in view of Lin et al., further in view of Kenneth, further in view of Hind, and further in view of Xie.

Claim 8 represents an apparatus claim that corresponds to claim 2. It does not teach or define any new limitations above claim 2, and therefore is rejected for similar reasons.

Claims 10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abu-Hakima in view of Lin et al., and Kenneth and further in view of Hind et al., and further in view of Elo et al. (U.S. Pub. No. 2003/0204814).

As to claim 10, the combination of Abu-Hakima in view of Lin and Kenneth teaches the invention substantially as claimed (see rejection of claim 1 above).

The combination does not expressly teach the limitation of the apparatus further comprising means for receiving a request for a function; means for building an XML message; means for interpreting said XML message, said interpreting means adapted to perform the requested function and returning an XML message to said building means; and means for applying a XSL style sheet to the received XML message and sending the generated output to the user.



Art Unit: 2151

However Hind teaches of a system for remotely accessing information on a web server. Xie teaches the limitations of:

means for receiving a request for a function [col. 5, lines 3-30; Hind discloses receiving a request];

means for building an XML message [col. 5, lines 3-30; Hind discloses that a Proxy Servlet (building means) converts the request into an XML document]; and means for interpreting said XML message, said interpreting means adapted to perform the requested function [col. 5, lines 3-30; Hind discloses that the XML document is sent to a Home Network Reverse Proxy and Web Server (interpreting means) which transforms it into an HTTP request, and retrieves the requested information] and returning a message to said building means [col. 5, lines 3-30; Hind discloses sending the requested information to the Proxy Servlet (building means)].

The combination does not expressly teach of returning an XML message to the building means, or of means for applying a XSL style sheet to the received XML message and sending the generated output to the user.

However Elo teaches of a system for producing an on-line, interactive and dynamic presentation of data for viewers. Elo teaches the limitations of:

returning an XML message [par. 0034; Elo discloses creating an XML file to present information to a viewer]; and

means for applying a XSL style sheet to the received XML message and sending the generated output to the user [par. 0035; Elo discloses combining XSL style sheets with XML files to produce HTML output for the viewer].

Abu-Hakima in view of Lin and Kenneth, and Hind in view of Elo are analogous art because they relate to retrieving information from a server, and displaying the information to a user.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abu-Hakima in view of Lin and Kenneth, in view of Hind and Elo by using XML and XSL style sheets to retrieve and display information requested from the message tracking system. One would be motivated to do so to because XML and XSL style sheets are standards for displaying documents on the Web.

Claims 12-14 represents apparatus claims that corresponds to claim 5-7, respectively. They do not teach or define any new limitations above claim 5-7, and therefore are rejected for similar reasons.

Art Unit: 2151

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abu-Hakima in view of Lin et al., and Kenneth and further in view of Hind et al., further in view of Elo et al..

Claim 11 represents an apparatus claim that corresponds to claim 4. It does not teach or define any new limitations above claim 4, and therefore is rejected for similar reasons.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abu-Hakima in view of Lin et al., and Kenneth and further in view of Hind et al., further in view of Elo et al. and further in view of Xie et al.

Claim 15 represents an apparatus claim that corresponds to claim 2. It does not teach or define any new limitations above claim 2, and therefore is rejected for similar reasons.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Annapareddy et al. (5,717,862); Sleeper (6,401,074); De Vos et al. (6,240,552); Jolly (GB 1427319) ; Rudeseal et al. (5239659); Song Suntian (6421688); Shih et al. (6615223) and Anthias et al. (5856978). These prior art reference contain subject matters that are pertinent to the invention as claimed. Applicant is requested to consider these prior art references upon responding to this office action.

### ***Response to Arguments***

Applicant's arguments filed 10/06/2005 have been fully considered but they are not persuasive.

Applicant argued that (1) transmitting identifiers of un-transmitted communications is not the same as counting the number of message delivered.

Examiner respectfully submits that regarding to item (1), this rejection has been modified. The combination of Abu-Hakima, Lin, Kenneth, and Xie teach counting the number of messages delivered. It must be noted that Abu-Akima teaches the steps of monitoring tracking [col. 10, lines 16-19; col. 3, lines 49-54; Abu-Hakima discloses that a user is able to query the system through an explanation agent regarding the path history of a message]. This feature implied not only the system is checking on the whereabouts of each message in order to know if it's been delivered or read or modified and so on, but also, by doing so the system automatically keeps count on messages that have or have not reached their destination in order to remedy the situation. Therefore, the step of counting the number of messages delivered is implicit in the step of keeping track.

In addition, Xie teaches a system for tracking and verifying the status of a communication from one node to another. This feature implied the steps of counting means. Accordingly, the rejection is maintained. Applicant is requested to review the prior art of record for further consideration.

At this point the claims in this application are very broad. Applicant is welcome to call the examiner for an interview for further consideration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571 272 3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2151

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz Jean



FRANTZ B. JEAN  
PRIMARY EXAMINER